

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

JEFFREY M. DAVIS, JR.,

Plaintiff,

v.

ORDER

13-cv-467-wmc

DAWN LAURENT, NICHOLAS BUHR,
MARCELO TRINIDAD, DANIEL NORGE,
DAVID MELBY, MICHAEL MEISNER,
GARY ANKARLO, JESSICA HARRIS,
PATRICK HOOPER, KEVIN PITZEN,
DALIA SULIENE, KAREN ANDERSON,
GARY MAIER, JANEL NICKEL, CHAD KELLER,
SEAN SALTER, TODD CALLISTER,
STEVEN PARENTEAU, SCOTT ROYCE,
SGT. GEE, BRENT EXNER, C.O. JOHNSON,
SGT. JULSON, RODNEY KRATZ, C.O. BROWN,
SGT. PALMER, SGT. BARTZ, C.O. DELMORE,
C.O. FABRY, C.O. HERSHBERGER,
NATHAN PRESTON, CAPT. CASIANA,
LT. BREDEMANN, SGT. SCHNEIDER,
SGT. HAAG and C.O. JOHN DOES 1-4,

Defendants.

Plaintiff Jeffrey M. Davis, Jr., has submitted a proposed civil action under 42 U.S.C. § 1983, challenging the conditions of his confinement. He has been granted leave to proceed *in forma pauperis*, but he has not yet made the initial partial filing fee assessed by the court. Davis has now filed a motion to voluntarily dismiss this case.

The court construes the pending motion as a request for voluntary dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A), which allows dismissal upon the plaintiff's request before the opposing party serves either an answer or a motion for summary judgment. Because no responsive pleading has been requested or received in this case, the motion will be granted and the case will be dismissed without prejudice. *See Smith v.*

Potter, 513 F.3d 781, 782-83 (7th Cir. 2008) (observing that a plaintiff's motion for voluntary dismissal filed before the opposing party serves either an answer or dispositive motion automatically effects dismissal of the case); *see also Nelson v. Napolitano*, 657 F.3d 586, 587-88 (7th Cir. 2011) (discussing the effect of a voluntary dismissal under Rule 41(a)) (collecting cases).

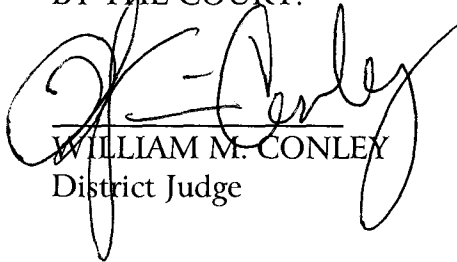
ORDER

IT IS ORDERED that:

1. The motion for voluntary dismissal filed by plaintiff Jeffrey M. Davis, Jr., (Dkt. # 10) is GRANTED.
2. This case is DISMISSED without prejudice pursuant to Fed. R. Civ. P. 41(a).

Entered this 28th day of August, 2013.

BY THE COURT:



WILLIAM M. CONLEY
District Judge